

BEFORE THE GROWTH MANAGEMENT HEARINGS BOARD
EASTERN WASHINGTON REGION
STATE OF WASHINGTON

FUTUREWISE,

Petitioner,

v.

STEVENS COUNTY,

Respondent.

Case No. 05-1-0006

ORDER FINDING COMPLIANCE

I. SYNOPSIS

The Board found Stevens County in compliance with the Growth Management Act for adopting permanent regulations to protect Endangered, Threatened, and Sensitive (ETS) species and associated Fish and Wildlife Habitat Conservation Areas.

II. PROCEDURAL HISTORY

On January 13, 2006, the Board issued a Final Decision and Order (FDO).

On December 24, 2009, the Board issued its Compliance Order, and on February 17, 2010, the Board issued a *Second* Compliance Order.

On February 4, 2011, the Board issued its *Third* Order on Compliance which found Stevens County's adoption of *interim* regulations failed to achieve compliance with the GMA.

Subsequently, on June 14, 2011 and August 18, 2011, the Board granted Stevens County's requests for additional time to comply.

On October 31, 2011, Stevens County filed its Compliance Report/Statement of Actions Taken to Comply (SATC).

1 On November 21, 2011, Futurewise filed a Concurrence with a Finding of Compliance.

2 On December 8, 2011, the Board held a telephonic compliance hearing in this matter.
3 Board members Joyce Mulliken, Raymond Paoella, and James McNamara attended, with
4 Board member Mulliken presiding. Futurewise was represented by Tim Trohimovich.
5 Stevens County was represented by Peter G. Scott.

6 III. BOARD DISCUSSION AND ANALYSIS

7 In 2010, Stevens County adopted interim measures to regulate development proposals
8 within 200 feet of areas identified as habitat having an association with Endangered,
9 Threatened, or Sensitive (ETS) species. On June 17, 2010, the Board found Stevens
10 County in continuing non-compliance for failure to adopt permanent regulations to protect
11 ETS species and habitat under the GMA. On February 4, 2011, the Board determined
12 Stevens County was in continuing non-compliance for failure to adopt permanent legislation
13 as required by RCW 36.70A.020(9), 36.70A.060(2) and 36.70A.172.

14 On October 18, 2011, Stevens County adopted Ordinance 03-2011¹ amending the
15 County's Critical Areas Ordinance. Futurewise contends Ordinance No. 03-2011 provides
16 for the protection of fish and wildlife habitats at issue², and that the County has satisfied the
17 following three matters of previous concern:³

- 18 1. The County's definition of "development proposal," which defines the uses and
19 activities regulated by the provisions applicable to fish and wildlife habitats shown as
20 polygons, does not include road building and other activities which when located
21 within the habitat can damage fish and wildlife habitats.
- 22 2. The County's definition of "development proposal" and the failure to require review of
23 activities and uses near the habitat failed to protect habitats from nearby uses and
24 activities

25 ¹ Stevens County SATC, dated October 31, 2011.

26 ² *Futurewise v. Stevens County*, EWGMHB Case No. 05-1-0006.

³ Oral statement of Tim Trohimovich at Compliance Hearing, December 8, 2011.

1 3. The repeal of the 200-foot buffer in SCC 13.10.034 that had been applicable to ETS
2 species violated the GMA because it reduced the protection for those species below
3 the level required by the best available science and the GMA.

4 The Board agrees with Futurewise and commends the work of Stevens County and
5 Futurewise. The Board finds Stevens County is in compliance with the Growth
6 Management Act for the issues raised in *Futurewise v. Stevens County*, EWGMHB Case
7 No. 05-1-0006.

8 **ORDER**

9 Based on the foregoing, the Board determines Stevens County is in Compliance with the
10 Growth Management Act for the issues raised in *Futurewise v. Stevens County*, EWGMHB
11 Case No. 05-1-0006. This case is hereby closed.

12 Entered this 14th day of December, 2011.

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Joyce Mulliken, Board Member

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Raymond L. Paoella, Board Member

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James McNamara, Board Member